

No. 14/13/87-6Lab./198.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman Shri Madan Lal and the management of M/s Secretary, HSEB, Panchkula.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 511 of 1992

Between

SHRI MADAN LAL, S/O SHRI NAROUTA RAM, VILL. SURKHAR, P. O. MADANPUR, DISTRICT
KURUKSHETRA Workman

AND

THE MANAGEMENT OF M/S SECRETARY, H. S. E. B., PANCHKULA. 2. XEN., GRID
CONSTRUCTIONS DIVISION, HSEB, KARNAL. Management

Present :

Shri Karan Singh, A. R., for the workman.

Shri S. S. Sirohi, L. O., for the management.

AWARD

In exercise of the powers conferred by sub clause (c) of sub-section (1) of section 10 of the Industrial Disputes, Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this Court for adjudication,—vide Labour Department Notification No. 3/25/90-3 Lab., dated the 29th October, 1991:—

Whether the termination /retrenchment of Shri Madan Lal is justified and in order ? If not to what relief he is entitled ?

2. The workman and the management were summoned. The workman had appeared and filed the demand notice which is to the effect that the workman/petitioner came in employment as Lineman in August, 1982 and worked in the Kaithal Construction Sub-Division under the territorial jurisdiction of the Executive Engineer, Construction Division, HSEB, Karnal. The services of the petitioner were terminated in July, 1984. The work and conduct of the petitioner was satisfactory during tenure of his employment. Thus his termination of the services is illegal and in utter disregard of the provisions of law as no notice was given nor the wages in lieu of services prepared besides the retrenchment compensation was also not paid. The principle of last come first go was not observed, juniors persons are still in the employment. Hence this demand notice under Section 2-A of the Industrial Dispute Act was filed by the workman that he may be reinstated with continuity of service and full back wages.

3. The management had filed the written statement that the reference is without cause of action and is not maintainable and the writ petition of the workman as admitted by him has been dismissed by the High Court, the matter having as such become final; the reference is bad in law on account of the laches and delay, since the workman has accepted the payment of compensation etc. of Rs. 546. Infact the petitioner was appointed as labourer as daily wager with effect from the 14th August, 1982; that the services of the workman were terminated on account of shortage of material and work; the petitioner was given one month's notice on the 27th June, 1984, —vide memo No. 2804/3017 and was also paid Rs. 546 retrenchment compensation before services were terminated on 31st July, 1984, no person junior to petitioner has been retained in service except the officials who had obtained stay order from the Supreme Court of India thus the termination of workman is legal and justifiable and with jurisdiction after the compliance the legal formalities, as required under the Industrial Disputes Act and his demand notice may be dismissed.

4. Replication was filed by the workman. On the pleadings of the parties, the following issues were framed:—

- (1) Whether the termination of services of the workman Shri Madan Lal is illegal ? OPW.
- (2) Whether reference is bad on account of delay and laches ?
- (3) Whether workman is estopped from raising Industrial Dispute, as alleged ? OPM.
- (4) Relief.

5. My findings on the above issues with reasons thereof are as under:—

Issue No. 1 :

6. The workman has come into witness box as WW-1 and closed the evidence. The management has examined Shri Pritam Singh, Head Clerk as MW-1 and closed the evidence.

7. The question involved in this case for decision is whether the workman was appointed for particular work and the work had finished and thereafter there was no alternative except to relieve the workman from the job. To prove that the workman was appointed for particular work, the management has examined Shri Rameshwar Dass, Clerk and who made the statement that the work of the applicant was retrenched on 1st September, 1983 because of lack of the work and the workman was given the retrenchment notice etc. but he refused, the copy of which Ex. MW-1/2 and Ex. MW-1/2. He also made statement that after termination of the workman Shri Ramesh Chand was employed in the Division and no application was received from the applicant for appointment after his termination of service. Mr. Rameshwar Dass could not tell as to how much amount was paid to the workman as retrenchment compensation without seeing that the official record which was not brought on that date in the Court. He also made statement that retrenchment notice was issued and sanction from Government regarding retrenchment of the workers was sought but he had not brought the record so he could not tell as to when the retrenchment notice was issued. He also made statement that the workers had come to join the service again as per order of the Court. So he was could not tell after closure of the S. I. Division when the applicant was transferred to this Division. He also could not bring the seniority list and he could not tell as to at what number of applicant is and at what number Ram Phal is.

8. On the other hand the applicant had made the different statement that he was posted on the date of 1st December, 1990 and worked upto 31st August 1983 and he was removed from job without any notice, notice pay and retrenchment compensation etc. He also made statement that after removal of workman two persons namely Jashwant Singh and Mahabir Singh were appointed. So the workman admitted that he was working in S. I. C. Division of H. S. E. B., Karnal and this Division was closed. After that some of the workers were transferred to other Division.

9. From the evidence it is proved that the workman had served for more than 240 days in year and it is not proved that the workman was given the notice, notice pay or retrenchment compensation while removing from the job. It is proved that as the workman had served for more than 240 days in a year, his services could not be terminated without due compliance of Section 25-F of the I. D. Act. Then the management has not specifically denied the allegation of the workman that he served the management for about 240 days in a year. The workman brought to the notice the case of law of Gurmeet Singh and others *versus* Indian Iron Steel Co., Ltd., and others cited in 1994 lab. I. C., 45.

10. He also referred the case of Hussainbhai *versus* Alath Factory Tozhilali Union and others decided by the Hon'ble Supreme Court on the 28th July, 1978 regarding the relationship of Master and Servant between the parties, which is not applicable to the facts of case.

11. It is proved that as the workman had served for more than 240 days in a year and his services was terminated without compliance of Section 25-F of the I. D. Act which the management could not do it. As I hold that the termination of the workman is illegal. As such I accept the reference petition and decide this issue in favour of the workman and against the management.

Issues No. 2 and 3 :

12. Both these issues are not pressed or argued by the parties. Hence, I decide both these issues against the management.

Issue No. 4 (Relief) :

13. In view of my findings on the above issues I accept the reference petition of the workman and direct the management to re-employ the workman with 30% of back wages from back date. The reference is answered and returned accordingly, with no orders as to costs.

The 3rd June, 1994.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. 1424, dated the 9th June, 1994.

A copy is forwarded to the following :—

1. Labour Commissioner, Haryana, Chandigarh.
2. Labour Officer, Karnal.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

P. R. KAUSHIK,

Financial Commissioner and Secretary to Govt.,
Haryana, Labour and Employment Department,